

Small Business Administration

§ 140.2

the final determination may not be delegated to another agency.

[53 FR 19760, May 31, 1988, as amended at 61 FR 2691, Jan. 29, 1996]

PART 140—DEBT COLLECTION

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AUTHORITY: 5 U.S.C. 5514; 15 U.S.C. 634(b)(6); 31 U.S.C. 3711, 3716, 3720, 3720A and 3720D.

SOURCE: 60 FR 62191, Dec. 5, 1995, unless otherwise noted.

Subpart A—Overview

§ 140.1 What does this part cover?

This part establishes procedures which SBA may use in the collection, through offset or administrative wage garnishment, of delinquent debts owed to the United States. SBA's failure to comply with any provision of the regulations in this part is not available to any debtor as a defense against collection of the debt through judicial process or otherwise.

[70 FR 17587, Apr. 7, 2005]

Subpart B—Offset

§ 140.2 What is a debt and how can the SBA collect it through offset?

(a) A debt means an amount owed to the United States from loans made or guaranteed by the United States, and from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, fines, penalties, damages, interest, forfeitures, or any other source. You are a debtor if you owe an

amount to the United States from any of these sources.

(b) SBA may collect past-due debts through offset by using any of three procedures: administrative offset, salary offset, or IRS tax refund offset. A past-due debt is one which has been reduced to judgment, has been accelerated, or has been due for at least 90 days.

(1) *Administrative offset.* SBA may withhold money it owes to the debtor in order to satisfy the debt. This procedure is an "administrative offset" and is authorized by 31 U.S.C. 3716.

(2) *Salary offset.* If the debtor is a federal employee (a civilian employee as defined by 5 U.S.C. 2105, an employee of the U.S. Postal Service or Postal Rate Commission, or a member of the Uniformed Services or Reserve of the Uniformed Services), SBA may deduct payments owed to SBA or another federal agency from the debtor's paycheck. This procedure is a "salary offset" and is authorized by 5 U.S.C. 5514.

(i) Any amount deducted from salary in any one pay period will not exceed 15 percent of a debtor's disposable pay, unless the debtor agrees in writing to a greater percentage.

(ii) SBA also may collect against travel advances, training expenses, disallowed payments, retirement benefits, or any other amount due the employee, including lump-sum payments.

(iii) If an employee has terminated employment after salary offset has been initiated, there are no limitations on the amount that can be withheld or offset.

(3) *IRS tax refund offset.* SBA may request that IRS reduce a debtor's tax refund by the amount of the debt, as authorized by 31 U.S.C. 3720A. Where available, administrative and salary offsets must be used before collection is attempted through income tax offset. SBA may refer a debt to the IRS for a tax refund offset and take additional action against the debtor to collect the debt at the same time or in sequence. When SBA makes simultaneous or sequential referrals (within six months of the initial notice), only one review pursuant to the rules in this part and the statutes authorizing them is required.